IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS TEXARKANA DIVISION

JOHN A. MILLER

Plaintiff

v.

NICK CARR, ET AL.

Defendants

Case No. 5:21-cv-139 (Consolidated with 5:21-cv-127, 5:22-cv-11, and 5:22-cv-103)

ORDER OF DISMISSAL

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Plaintiff John A. Miller, proceeding *pro se* but not *in forma pauperis*, filed the above-styled civil actions complaining of alleged violations of his constitutional rights. The lawsuits have been consolidated and referred to the United States Magistrate Judge in accordance with 28 U.S.C. § 636. In January of 2023, the Magistrate Judge issued an order explaining that it was Plaintiff's obligation to effect service of process and setting out how to so. Docket No. 27. Process was issued and summons forms were provided to Plaintiff along with the Local Rules of Court for the Eastern District of Texas. *Id.* at 3. Plaintiff was advised that if service was not effected within 90 days, any defendant not served could be dismissed from the lawsuit without prejudice. *Id.*

When no service was forthcoming, the Magistrate Judge issued a Report on November 14, 2023, recommending that the case be dismissed without prejudice for failure to effect service of process. Docket No. 35. Plaintiff received a copy of this Report on November 29, 2023, but filed no objections. Docket No. 36. Accordingly, Plaintiff is barred from *de novo* review by the District Judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by

¹ Summons forms were provided for each Defendant in each of the consolidated cases (5:21-cv-139, 5:21-cv-127, 5:22-cv-11, and 5:22-cv-103).

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the District Court. Duarte v. City of Lewisville, Texas, 858 F.3d 348, 352 (5th Cir. 2017); Arriaga v.

Laxminarayan, Case No. 4:21-CV-00203- RAS, 2021 WL 3287683, at *1 (E.D. Tex. July 31, 2021).

The Court has reviewed the pleadings in these causes and the Report of the Magistrate Judge.

Upon such review, the Court has determined that the Report of the Magistrate Judge is correct. See

United States v. Wilson, 864 F.2d 1219, 1221 (5th Cir.), cert. denied, 492 U.S. 918 (1989) (where no

objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous,

abuse of discretion and contrary to law."). It is accordingly

ORDERED that the Report of the Magistrate Judge (Docket No. 35) is **ADOPTED** as the

opinion of the District Court. It is further

ORDERED that the above-styled civil actions are DISMISSED WITHOUT PREJUDICE

for failure to effect service of process. Fed. R. Civ. P. 4(m). It is further

ORDERED that the statute of limitations is suspended for a period of 30 days following the

date of entry of final judgment.

So ORDERED and SIGNED this 23rd day of January, 2024.

ROBERT W. SCHROEDER III

UNITED STATES DISTRICT JUDGE